

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANOUSONE SAVANH,

Defendant.

Case No. 2:14-CR-00290-KJD-PAL

ORDER

Presently before the Court is Defendant's Motion for Judgment of Acquittal (#166). The Government filed a response in opposition (#168). Defendant's motion is timely pursuant to Federal Rule of Criminal Procedure ("Rule") 45 (c) which adds three days after service. Amendments effective December 1, 2016 eliminate these additional days when service is made electronically, as in this case.

Defendant was convicted on May 26, 2016 of Receipt of Child Pornography and Possession of Child Pornography. Defendant then filed the present motion pursuant to Rule 29 (c) asserting that no reasonable trier of fact could find beyond a reasonable doubt that he received or possessed child pornography.

Pursuant to Rule 29 (c), the Court must determine whether ". . . viewing the evidence in the light most favorable to the government, a rational trier of fact could have found the defendant guilty

beyond a reasonable doubt.” United States v. Ching Tang Lo, 447 F.3d 1212, 1221 (9th Cir. 2006). Also, when reviewing the sufficiency of the evidence to support the conviction, “. . . the salient question is ‘whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” Jones v. Wood, 207 F.3d 557, 563 (9th Cir. 2000)(quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

There is no doubt, after hearing the presentation of evidence from both parties and viewing the evidence in the light most favorable to the government that a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. In fact, the evidence against Defendant was overwhelming, especially considering that Defendant testified in his own behalf, and that “[c]redibility of witnesses and the weight accorded the evidence . . . are questions for the jury that are not reviewable.” U.S. v. Burns, 701 F.2d 840, 842 (9th Cir. 1983).¹

The following evidence presented during trial, viewed in the light most favorable to the prosecution, is enough for a rational trier of fact to have found the elements of the crime beyond a reasonable doubt:

1. Digital video and photographs of minors engaged in sexually explicit conduct that had been downloaded via the internet to Defendant’s computer;
2. Evidence of Defendant’s use of that computer;
3. Defendant’s statement to the officer investigating the downloaded pornography in which he admits to most of the elements of the crimes of which he was convicted, if not all;
4. Defendant’s trial testimony;

¹Defendant’s own estimation of the believability of his testimony is not sufficient to sustain a motion under Rule 29 (c).

- Additionally, the Court notes that this summary is just a portion of the evidence presented, but enough to sustain the jury's finding under Rule 29 (c). In total, the evidence was overwhelming, even without considering Defendant's credibility.

DATED this 2nd day of September 2016.

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